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9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
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15 ) Case No. CV - SH  
16 )  
17 Plaintiff(s), ) **CASE MANAGEMENT ORDER**  
18 v. ) **IN GENERAL ORDER 08-09**  
19 ) **CASES (MAGISTRATE JUDGE**  
20 Defendant(s) ) **PILOT PROJECT)**  
 ) **(See LAST PAGE FOR FORM**  
 ) **RE: PRETRIAL AND TRIAL DATES)**  
 )

21  
22 This case has been assigned to the calendar of Magistrate Judge Stephen J.  
23 Hillman, and the parties have agreed to the magistrate judge's exercise of  
24 jurisdiction in cases randomly assigned pursuant to General Order 08-09.

25 The magistrate judge is located in Courtroom 550, which is on the 5<sup>th</sup> floor  
26 of the Edward R. Roybal Federal Building and Courthouse, 255 E. Temple Street,  
27 Los Angeles, CA 90012. The courtroom deputy clerk ("CRD"), Ms. Sandra Butler,  
28 can be reached at (213) 894-6487. The magistrate judge expects full compliance

1 with the Federal Rules of Civil Procedure, the Local Rules for the Central District  
2 of California (“the Local Rules”), and the scheduling order in this case.  
3 Ambiguities, if any, will be construed to secure the just, speedy, and inexpensive  
4 determination of each action.

5 The purpose of this order is to enable counsel<sup>1</sup> to know well in advance the  
6 schedule and requirements to which they will be expected to adhere.

7  
8 **I. SCHEDULING CONFERENCE AND/OR ORDER**

9 The magistrate judge may set a scheduling conference, or issue a scheduling  
10 order without a scheduling conference. In either event, at least twenty-one (21)  
11 days in advance of the time limits set forth in Fed. R. Civ. P. 16(b)(2), counsel shall  
12 file the joint report required by Fed. R. Civ. P. 26(b) and Local Rule 26. A form for  
13 suggested pre-trial and trial dates is attached to this order. **Counsel must jointly**  
14 **complete this form and attach it to the joint report.**

15 At the time of the filing of the joint report, counsel shall also file a separate  
16 document entitled “joint notice of scheduling status conference,” which shall  
17 schedule the conference on the magistrate judge’s calendar on the first Monday  
18 three weeks thereafter at 1:30 p.m. If that Monday is a holiday, the joint notice shall  
19 designate the immediately following Tuesday at 1:30 p.m.. The magistrate judge  
20 will consider the dates suggested by counsel on the form attached to the joint  
21 report. A scheduling order with specific dates for pre-trial events and trial will be  
22 issued after the magistrate judge’s review of the completed form and, if necessary,  
23 a scheduling conference.

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27 \_\_\_\_\_  
28 <sup>1</sup> "Counsel" as used in this order also applies to persons appearing in propia persona.

1 **II. DISCOVERY CUT-OFF**

2 All discovery shall be completed by the discovery cutoff date. **THIS IS NOT**  
3 **THE DATE BY WHICH DISCOVERY REQUESTS MUST BE SERVED; IT**  
4 **IS THE DATE BY WHICH ALL DISCOVERY, INCLUDING EXPERT**  
5 **DISCOVERY, IS TO BE COMPLETED.**

6 Any motion challenging the adequacy of responses to discovery must be filed  
7 timely, served, and calendared sufficiently in advance of the discovery cutoff date  
8 to permit additional discovery to be obtained before that date, if the motion is  
9 granted. The magistrate judge requires compliance with Local Rule 37-1 and 37-2  
10 in the preparation and filing of discovery motions. Except in the case of an extreme  
11 emergency which was not created by the lawyer briefing the motion, discovery  
12 motions may not be heard on ex parte application. Discovery motions are  
13 frequently decided on the papers without a hearing.

14  
15 **III. MOTIONS AND MOTION CUTOFF DATE**

16 **A. GENERAL PROVISIONS**

17 All law and motion matters, except for discovery motions (which are subject  
18 to the time limits set forth in the preceding paragraph) and motions in limine, must  
19 be filed by the motion cut-off date specified on the attached schedule of trial and  
20 pre-trial dates after this schedule is approved by the magistrate judge.

21 The parties must adhere to the requirements of the Local Rules. See Local  
22 Rules 7-1 et seq. If any party does not oppose a motion, that party shall submit a  
23 written statement in accordance with Local Rule 7-16 that it does not oppose the  
24 motion. The parties should note that failure to meet the time limits set forth in  
25 Local Rule 7 may be deemed consent to the granting of the motion. Local Rule 7-  
26 12.

27 To insure that the magistrate judge receives oppositions and replies in a  
28 timely fashion, chambers copies conformed to reflect that they have been e-filed

1 must be delivered to Chambers by leaving them in the courtesy/chambers copy  
2 box located outside chambers.

3 Motions are heard on Mondays at 2:00 p.m. unless otherwise ordered by the  
4 Court. Even if a motion is still necessary after a good faith pre-filing conference,  
5 counsel should have sufficiently discussed the issues so that the briefing will be  
6 directed to those substantive issues which require resolution by the Court.

7 Unless clearly justified under the circumstances of the case, “motions to  
8 dismiss or in the alternative for summary adjudication” are discouraged. Such  
9 composite motions tend to blur the legitimate distinction[s] between the two  
10 motions, which have different purposes. Moreover, Fed. R. Civ. P. 12(b)(6)  
11 motions are discouraged unless moving counsel has a legitimate belief after a good  
12 faith conference that such motion will likely result in dismissal, without leave to  
13 amend, of all or at least some of the claims under applicable law. In most cases, the  
14 prospective moving party should agree to any amendment that would cure the  
15 defect.

#### 16 **B. EX PARTE APPLICATIONS**

17 Ex parte practice is strongly discouraged. See Mission Power Eng. Co. v.  
18 Continental Casualty Co., 883 F. Supp. 488 (C.D. Cal. 1995). Counsel must adhere  
19 to proper ex parte procedures for any ex parte application filed with the magistrate  
20 judge. Id., at 492; see also Local Rule 7-19.

#### 21 **C. SIZE OF PLEADINGS AND CITATION**

22 Memoranda of points and authorities in support of or in opposition to any  
23 motion **shall not exceed 25 pages**. Replies **shall not exceed 12 pages**. Only in rare  
24 instances and for good cause shown will the Court grant an application to extend  
25 these page limitations. Citations to case law must identify not only the case cited,  
26 but the specific page referenced. Statutory and other references should identify with  
27 specificity the sections and subsections referenced.

#### 28 **D. APPLICATIONS AND STIPULATIONS TO EXTEND TIME**

1 Extensions of time are rarely granted and no stipulations extending the  
2 magistrate judge's scheduling dates shall be effective unless approved by the  
3 magistrate judge. Applications to extend the time to file any required document or  
4 to continue any pre-trial or trial date must set forth:

- 5 (i) the existing due date or hearing date;
- 6 (ii) specific, concrete reasons supporting good cause for granting the  
7 extension. This information must be presented in a sworn declaration;
- 8 (iii) whether there have been prior requests for extensions, and whether these  
9 were granted or denied by the magistrate judge.

10 The party(ies) requesting the extension must provide the magistrate judge  
11 with a proposed order setting forth the proposed new dates and/or proposed new  
12 schedule.

### 13 **E. SUMMARY JUDGMENT MOTIONS**

14 No party may file more than one motion pursuant to Fed. R. Civ. P. 56  
15 regardless of whether such motion is denominated as a motion for summary  
16 judgment or summary adjudication.

17 To increase efficiency and to assist counsel in structuring and focusing these  
18 motions, the following requirements apply when filing motions for summary  
19 judgment.

#### 20 **1. Separate Statement of Undisputed Facts and Statement of Genuine Issues**

21 The separate statement of undisputed facts is to be prepared in a two-column  
22 format. The left-hand column should set forth the allegedly undisputed fact. The  
23 right-hand column should set forth the evidence that supports the factual statement.  
24 The fact statements should be set forth in sequentially numbered paragraphs. Each  
25 paragraph should contain a narrowly focused statement of fact. Each numbered  
26 paragraph should address a single subject in as concise a manner as possible.

27 The opposing party's statement of genuine issues must be in two columns and  
28 track the moving party's separate statement exactly as prepared. The document

1 must be in two columns; the left-hand column must restate the allegedly  
2 undisputed fact, and the right-hand column must indicate either undisputed, or  
3 disputed. The opposing party may dispute all or only a portion of the statement, but  
4 if disputing only a portion, must clearly indicate what part is being disputed.  
5 Where the opposing party is disputing the fact in whole or part, the opposing party  
6 must, in the right-hand column, label and restate the moving party's evidence in  
7 support of the fact, followed by the opposing party's evidence controverting the  
8 fact. Where the opposing party is disputing the fact on the basis of an evidentiary  
9 objection, the party must cite to the evidence alleged to be objectionable and state  
10 the ground of the objection and nothing more. **No argument should be set forth**  
11 **in this document.**

12 The opposing party may submit additional material facts that bear on or relate  
13 to the issues raised by the moving party, which shall follow the format described  
14 above for the moving party's separate statement. These additional facts shall  
15 follow the moving party's facts, shall continue in sequentially numbered  
16 paragraphs (e.g., if the moving party's last statement of fact was set forth in  
17 paragraph 30, then the first new fact will be set forth in paragraph 31), and shall set  
18 forth in the right hand column the evidence that supports that statement. The  
19 moving party, in its reply, shall respond to the additional facts in the same manner  
20 and format that the opposition party is required adhere to in responding to the  
21 statement of undisputed facts, as described above.

## 22 2. Supporting Evidence

23 No party should submit any evidence other than the specific items of  
24 evidence or testimony necessary to support or controvert a proposed statement of  
25 undisputed fact. Thus, for example, the entire transcript of a deposition, entire sets  
26 of interrogatory responses, and documents that do not specifically support or  
27 controvert material in the separate statements, should not be submitted in support  
28 or opposition to a motion for summary judgment.

1 Evidence submitted in support or opposition to a motion should be submitted  
2 either by way of stipulation or as exhibits to declarations sufficient to authenticate  
3 the proffered evidence and should not be attached to the memorandum of points and  
4 authorities. The magistrate judge will accept counsel's authentication of deposition  
5 transcript, of written discovery responses, and of the receipt of documents in  
6 discovery if the fact that the document was in the opponent's possession is of  
7 independent significance. Documentary evidence as to which there is no  
8 stipulation regarding foundation must be accompanied by the testimony, either by  
9 declaration or properly authenticated deposition transcript, of a witness who can  
10 establish its authenticity.

### 11 3. Objections to Evidence

12 If a party disputes a fact based in whole or in part on an evidentiary objection,  
13 the ground of the objection, as indicated above, should be stated in the separate  
14 statement but not argued in that document. Evidentiary objections are to be  
15 addressed in a separate memorandum to be filed with the opposition or reply brief  
16 of the party. This memorandum should be organized **to track the paragraph**  
17 **numbers of the separate statement in sequence**. It should identify the specific  
18 item of evidence to which objection is made, identify the ground of the objection,  
19 and make a very brief argument with citation to authority as to why the objection  
20 is well taken. The following is an example of the format contemplated by the  
21 magistrate judge:

22 Separate Statement Paragraph 1: Objection to the supporting  
23 deposition transcript of Jane Smith at 60:1-10 on the grounds  
24 that the statement constitutes inadmissible hearsay and no  
25 exception is applicable. To the extent it is offered to prove her  
26 state of mind, it is irrelevant since her state of mind is not in  
27 issue. Fed. R. Evid. 801, 802.

28 **DO NOT SUBMIT BLANKET OR BOILERPLATE OBJECTIONS TO THE**

1 **OPPONENT’S STATEMENTS OF UNDISPUTED FACT: THESE WILL BE**  
2 **DISREGARDED AND OVERRULED.**

3 4. The Memorandum of Points and Authorities

4 The moving party’s memorandum of points and authorities should be in the  
5 usual form required under Local Rule 7 and should contain a narrative statement of  
6 facts as to those aspects of the case that are before the magistrate judge. All facts  
7 should be supported with citation to the paragraph number in the separate statement  
8 that supports the factual assertion and not to the underlying evidence.

9 Unless the case involves some unusual application of Fed. R. Civ. P. 56, the  
10 motion need only contain a brief statement of the Fed. R. Civ. P. 56 standard. The  
11 argument should be organized to focus on the pertinent elements of the claim(s) or  
12 defense(s) in issue, with the purpose of showing the existence or non-existence of  
13 a genuine issue of material fact for trial on that element of the claim or defense.

14 Likewise, the opposition memorandum of points and authorities should be in  
15 the usual form required by Local Rule 7, and where the opposition memorandum  
16 sets forth facts, the memorandum should cite to paragraphs in the separate statement  
17 if they are not in dispute, to the evidence that contravenes the fact where the fact is  
18 in dispute, or, if the fact is contravened by an additional fact in the statement of  
19 genuine issues, the citation should be to such fact by paragraph number.

20 5. Timing

21 The magistrate judge expects that the moving party will provide more than  
22 the minimum twenty-one (21) day notice for such motions. The moving party  
23 should deliver to the CRD a copy of a diskette or USB flash drive, in WordPerfect  
24 format (9.0 or earlier versions), containing the statement of uncontroverted facts and  
25 conclusions of law.

26 **F. ORAL ARGUMENT**

27 If the Court concludes that a motion can be resolved without argument, the  
28 magistrate judge will notify the parties in advance.



1           **G.     MOTIONS IN LIMINE**

2           The parties must file motions in limine addressing the admissibility of  
3 evidence in accordance with Local Rule 7-3 by the date specified in the scheduling  
4 order, guidelines for which are on the last page. The parties shall file their opposing  
5 and reply papers in accordance with Local Rules 7-9 and 7-10 respectively.  
6

7           **IV. PRE-TRIAL CONFERENCE FILINGS**

8           **A.     GENERAL PROVISIONS**

9           The pre-trial conference (“PTC”) will be held at 1:30 p.m. on the date on the  
10 last page, unless the magistrate judge expressly waived a PTC at the status  
11 conference. (In the rare cases where the magistrate judge waives a PTC, the parties  
12 must follow Local Rule 16-10.)

13          The lead trial attorney on behalf of each party shall attend both the PTC and  
14 all meetings of the parties in preparation of the PTC, unless excused for good cause  
15 shown in advance of the PTC.

16          At the PTC, the parties should be prepared to discuss means of streamlining  
17 the trial, including, but not limited to: bifurcation; presentation of foundational and  
18 non-critical testimony and direct testimony by deposition excerpts; narrative  
19 summaries and/or stipulations as to the content of testimony; presentation of  
20 testimony on direct examination by affidavit or by declaration subject to cross-  
21 examination; and, qualification of experts by admitted resumes.

22          **B.     FORM OF PRE-TRIAL CONFERENCE ORDER (“PTCO”)**

23          The proposed PTCO shall be lodged fourteen (14) calendar days before  
24 the PTC. Adherence to this time requirement is necessary for in-chambers  
25 preparation of the matter. The form of the proposed PTCO shall comply with  
26 Appendix A to the Local Rules.

27          **C.     LOCAL RULE 16 FILINGS, MEMORANDA, WITNESS LISTS,**  
28               **EXHIBIT LISTS**

1 The parties must comply fully with the requirements of Local Rule 16. They  
2 shall file carefully prepared memoranda of contentions of fact and law (which may  
3 also serve as the trial brief), along with their respective witness lists and exhibit  
4 lists, all in accordance with Local Rules 16-3, 16-4, 16-5 and 16-6.

5 **D. JURY INSTRUCTIONS, VERDICT FORMS, SPECIAL**  
6 **INTERROGATORIES**

7 1. Thirty (30) days before the Fed. R. Civ. P. 16 meeting, the parties shall  
8 exchange proposed jury instructions, verdict forms, and special interrogatories.  
9 Twenty-one (21) days before the meeting, counsel shall exchange written  
10 objections, if any, to proposed jury instructions, verdicts, and special interrogatories.  
11 At the meeting, the parties shall confer with the objective of submitting one set of  
12 agreed upon substantive instructions, verdict forms and, if necessary, special  
13 interrogatories. "Substantive jury instructions" means all instructions relating to the  
14 elements of all claims and defenses in the case. The Court will appreciate the  
15 parties delivering to the CRD a courtesy copy of these filings in an electronic format  
16 compatible with WordPerfect at the time the documents are filed.

17 2. If the parties cannot agree upon one complete set of substantive  
18 instructions, verdict forms, and/or special interrogatories, they shall file two  
19 documents with the magistrate judge: a joint document reflecting the agreed upon  
20 instructions, verdict forms, and/or special interrogatories, and a second document  
21 in the form of a joint statement regarding the disputed instructions, verdicts, and  
22 interrogatories in the following format for each instruction, verdict, or interrogatory  
23 in issue:

24 (a) A separate page containing the text of the disputed language with  
25 an identification of the party proposing it;

26 (b) Following the instruction, the opposing party's statement of  
27 objections to the instruction along with legal authority in support of  
28 the argument (**not to exceed one page**) and proposed alternative

1 language where appropriate;

2 (c) The proposing party's response to the objection with legal authority  
3 supporting the proposed language (**not to exceed one page**).

4 Both the agreed on set, and the joint statement re disputed instructions are to  
5 be filed with the pre-trial conference order and other Fed. R. Civ. P. 16 documents  
6 fourteen (14) days before the pre-trial conference.

7 3. All proposed jury instructions shall be in the format specified by Local  
8 Rule 51-2.

9 4. A table of contents shall be included with all jury instructions  
10 submitted to the magistrate judge. The table of contents shall set forth the  
11 following:

- 12 (a) The number of the instruction;
- 13 (b) A brief title of the instruction;
- 14 (c) The source of the instruction; and,
- 15 (d) The page number of the instruction.

16  
17 For example:

<u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page Number</u>
19 1	Burden of Proof	9th Cir. 12.2	5

20 5. The Court directs counsel to use the instructions from the Manual of  
21 Model Jury Instructions for the Ninth Circuit (West 1997) where applicable. Where  
22 California law is to be applied and the above instructions are not applicable, the  
23 Court prefers counsel to use the Judicial Council of California Civil Jury  
24 Instructions ("CACI") forms. If neither of these sources is applicable, counsel are  
25 directed to use the instructions in Devitt, Blackmar and Wolff, Federal Jury  
26 Practice and Instructions.

27 6. Modifications of instructions from the foregoing sources (or any other  
28 form instructions) must specifically state the modification made to the original form

1 instruction and the authority supporting the modification.

2       **E.     JOINT STATEMENT OF THE CASE AND REQUESTS FOR**  
3       **VOIR DIRE**

4       At the pre-trial conference, the parties shall lodge their proposed voir dire  
5 questions and their joint statement of the case which the magistrate judge shall read  
6 to all prospective jurors prior to the commencement of voir dire. The statement  
7 should be not longer than two or three paragraphs.

8       The Court conducts voir dire of all prospective jurors. The parties need not  
9 submit requests for standard voir dire questions, such as education, current  
10 occupation, marital status, prior jury service, etc., but should include only proposed  
11 questions specifically tailored to the parties and issues of the case.

12       **F.     FINDINGS OF FACT AND CONCLUSIONS OF LAW**

13       For a non-jury trial, the parties shall lodge their proposed findings of fact and  
14 conclusions of law in accordance with Local Rule 52-1 not later than one week  
15 before trial. The Court will appreciate the parties delivering to the CRD a copy of  
16 these findings on disk or USB flash drive in WordPerfect 9.0 format.

17  
18       **V.     SETTLEMENT**

19       Local Rule 16-15.2 provides that the settlement conference shall be  
20 concluded not later than forty-five (45) days before the pre-trial conference. In any  
21 event, the parties must file a status report re settlement at the time that they lodge  
22 the proposed PTCO, indicating that they have conducted the Local Rule 16  
23 settlement conference.

24       The magistrate judge will not conduct settlement conferences in non-jury  
25 cases which are to be tried before him. In jury cases, the magistrate judge will  
26 personally conduct a settlement conference at the parties' joint request if three  
27 conditions exist:

- 28       1. The parties are satisfied that the fact issues in the case will be tried to a

1 jury;

2 2. All significant pre-trial rulings which the magistrate judge must make have  
3 been made; and,

4 3. The parties desire the magistrate judge to conduct the conference,  
5 understanding that if settlement fails, the magistrate judge will preside over trial of  
6 the case.

7  
8 **VI. SERVICE OF THIS ORDER**

9 Counsel for plaintiff(s), in an action commenced in this court, and counsel for  
10 defendant(s) in a removed action, shall serve a copy of this order on all other parties  
11 or their counsel at the earliest possible time. Counsel, or any party required to give  
12 notice of this order, shall file proof of service of such notice within 48 hours of the  
13 service of such notice.

14 **IT IS SO ORDERED.**

15 .  
16 DATED:

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20 STEPHEN J. HILLMAN  
21 UNITED STATES MAGISTRATE JUDGE  
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